

Message Text

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ACTION SCI-06

INFO OCT-01 EUR-25 IO-14 ISO-00 ACDA-19 CIAE-00 INR-10

L-03 NSAE-00 NSC-10 RSC-01 SCEM-02 OIC-04 AF-10

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R 111455Z DEC 73

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 3742

INFO USMISSION EC BRUSSELS

AEC GERMANTOWN

AMEMBASSY BONN

C O N F I D E N T I A L IAEA VIENNA 10195

E.O. 11652: GDS

TAGS: PARM, US, IAEA

SUBJ: US VOLUNTARY SAFEGUARDS OFFER: CHANGES

IN PROTOCOL

REF: (A) STATE 240398 PARA FOUR,

(B) IAEA VIENNA 10076

1. IN RESPONSE TO FRG REQUEST IN RECENT VIENNA TALKS
ON US-IAEA SAFEGUARDS OFFER NEGOTIATIONS, MISSION
RECOMMENDS ARTICLE 9.A. OF PROTOCOL BE REVISED TO
READ:

"A. THE AGENCY, IN COOPERATION WITH THE UNITED STATES,
MAY SEND INSPECTORS TO FACILITIES IDENTIFIED BY THE
AGENCY PURSUANT TO ARTICLE 3 OF THIS PROTOCOL TO
VERIFY THE DESIGN INFORMATION PROVIDED TO THE AGENCY
PURSUANT TO ARTICLE 6 OF THIS PROTOCOL, FOR THE PURPOSES
STATED IN ARTICLE 7 OF THIS PROTOCOL OR FOR SUCH OTHER
PURPOSES AS MAY BE AGREED BETWEEN THE UNITED STATES AND
THE AGENCY. SUCH OTHER PURPOSES MAY INCLUDE, BUT NOT
BE LIMITED TO:

"(I) EXAMINATION OF RECORDS KEPT PURSUANT TO
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ARTICLES 10 THROUGH 16 OF THIS PROTOCOL FOR

THE PURPOSE OF VERIFYING THAT REPORTS TRANSMITTED TO THE AGENCY PURSUANT TO ARTICLE 17 OF THIS PROTOCOL ARE CONSISTENT WITH SUCH RECORDS;

"(II) VERIFYING THE FUNCTIONING AND CALIBRATION OF INSTRUMENTS AND OTHER MEASURING AND CONTROL EQUIPMENT;

"(III) OBSERVING THAT SAMPLES AT KEY MEASUREMENT POINTS FOR MATERIAL BALANCE ACCOUNTANCY ARE TAKEN IN ACCORDANCE WITH PROCEDURES WHICH PRODUCE REPRESENTATIVE SAMPLES;

"(IV) OBSERVING THE TREATMENT AND ANALYSIS OF SAMPLES;

"(V) OBSERVING THAT THE MEASUREMENTS OF NUCLEAR MATERIAL AT KEY MEASUREMENT POINTS FOR MATERIAL BALANCE ACCOUNTANCY ARE REPRESENTATIVE, AND TO OBSERVE THE CALIBRATION OF THE INSTRUMENTS AND EQUIPMENT INVOLVED."

2. IN RESPONSE TO FURTHER FRG REQUEST, MISSION RECOMMENDS INSERTION OF NEW ARTICLE 21, AS FOLLOWS, AND RE-NUMBERING OF PRESENT ARTICLE 21 (LAST ARTICLE IN PROTOCOL) AS 22:

"A. IF THE AGENCY SO REQUESTS, THE UNITED STATES SHALL PROVIDE IT WITH AMPLIFICATIONS OF CLARIFICATIONS OF ANY REPORT SUBMITTED IN ACCORDANCE WITH ARTICLE 17 OF THIS PROTOCOL, INsofar AS CONSISTENT WITH THE PURPOSE OF THE PROTOCOL.

"B. THE AGENCY SHALL INFORM THE UNITED STATES OF ANY SIGNIFICANT OBSERVATIONS RESULTING FROM ITS EXAMINATION OF REPORTS RECEIVED PURSUANT TO ARTICLE 17 OF THIS PROTOCOL AND FROM VISITS OF INSPECTORS MADE PURSUANT TO ARTICLE 9 OF THIS PROTOCOL.

"C. THE UNITED STATES AND THE AGENCY SHALL, AT THE REQUEST
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OF EITHER, CONSULT ABOUT ANY QUESTION ARISING OUT OF THE INTERPRETATION OR APPLICATION OF THIS PROTOCOL, INCLUDING CORRECTIVE ACTION NECESSARY TO BE TAKEN BY THE UNITED STATES TO ENSURE COMPLIANCE WITH ITS TERMS, AS INDICATED BY THE AGENCY IN ITS OBSERVATIONS PURSUANT TO PARAGRAPH B OF THIS ARTICLE."

3. THESE CHANGES ARE ACCEPTABLE TO FRG PERMREP UNGERER

AND IN FACT REVISION OF ARTICLE 9 CONTAINED IN PAPER HE GAVE US DECEMBER 7 (POUCHED STATE AND AEC) WHICH APPARENTLY REPRESENTS CLEARED FRG POSITION. IN ANY EVENT, IF THESE CHANGES APPROVED BY WASHINGTON AGENCIES, WE RECOMMEND FRG BE INFORMED THIS IS AS FAR AS WE ARE PREPARED TO GO TO ACCOMMODATE THEIR VIEWS AND NO FURTHER NEGOTIATION ON TEXT OF AGREEMENT POSSIBLE. OTHER POINTS MADE IN DECEMBER 7 PAPER AND RECOMMENDED RESPONSE TO THEM FOLLOW SEPTEL.

4. AS DEPARTMENT AND AEC WILL APPRECIATE, REVISION OF ARTICLE 9 IS SIMPLY ATTEMPT LIST WHAT SOME OF "OTHER PURPOSES" OF VISITS BY AGENCY INSPECTORS TO CATEGORY TWO FACILITIES (FACILITIES NOT UNDER SAFEGUARDS) MIGHT BE. NOTE THAT ALL PURPOSES ARE OPTIONAL (ORIGINAL FRG REQUEST WOULD HAVE THEM MANDATORY). INSPECTORS MAY DO SOME OR ALL OF ACTIVITIES LISTED BUT ARE NOT REQUIRED TO DO ANY. WE TOLD UNGERER OUR THINKING IS THAT INSPECTORS PERFORMING INSPECTION ON CATEGORY ONE FACILITY MIGHT VISIT ONE OR MORE NEARBY CATEGORY TWO FACILITIES IF TIME AND IAEA BUDGET PERMITTED. HE ACCEPTED OUR POINT THAT NEITHER WE NOR AGENCY CONTEMPLATED INSPECTORS GOING OUT OF THEIR WAY OR MAKING SPECIAL TRIPS TO MAKE THESE NON-INSPECTIONS. HOWEVER, UNGERER OBVIOUSLY VIEWS AMPLIFIED ARTICLE 9 AS GIVING APPEARANCE AND POTENTIAL OF EQUALIZING QTE BURDEN UNQUOTE ON US FACILITY OPERATORS AS COMPARED WITH EC OPERATORS.

5. REVISION OF ARTICLE 21 IS OUR COUNTER-OFFER TO FRG REQUEST (WHICH THEY REPEAT IN THEIR DECEMBER 7 PAPER) THAT IN EVENT AGENCY DISCOVERS ANY IRREGULARITY IN ANY CATEGORY TWO FACILITY WITH RESPECT TO DESIGN INFORMATION, RECORDS OR REPORTS, IT MUST IMMEDIATELY CONFIDENTIAL

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MOVE SUCH FACILITY TO CATEGORY ONE. UNGERER ARGUES THAT WITHOUT SUCH PROVISION THERE ARE NOT SANCTIONS APPLICABLE TO FACILITIES COVERED BY PROTOCOL, SINCE IT UNCLEAR THAT QTE SANCTION UNQTE PROVISIONS OF AGREEMENT PROPER APPLY TO PROTOCOL. OUR RESPONSE IS TO CREATE ARTICLE 21 SPELLING OUT WHAT WE BELIEVE TO BE APPROPRIATE ACTIONS AGENCY COULD TAKE (AGAIN, MOSTLY OPTIONAL RATHER THAN MANDATORY) IN EVENT IRREGULARITIES UNCOVERED.

6. WE PLAN DELAY SUBMISSION OF REVISED AGREEMENT AND PROTOCOL TO AGENCY UNTIL RECEIPT OF WASHINGTON COMMENTS ON THIS MESSAGE. COMMENTS THEREFOR DESIRABLE ASAP. PORTER

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